



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2022-0581; FRL-10168-02-R5]

Air Plan Approval; Wisconsin; VOC RACT for Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions related to volatile organic compound (VOC) reasonably available control technology (RACT), submitted by the Wisconsin Department of Natural Resources ("Wisconsin" or "WDNR") on June 28, 2022. The SIP revisions consist of several additions, corrections, and clarifications to the Wisconsin Administrative Code (WAC) NR 400 series and update the VOC RACT requirements for the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (CTG) source categories. Also, EPA is approving Wisconsin's August 10, 2022, request to remove three previously approved Administrative Orders from the SIP. The request to remove these Administrative Orders includes a Clean Air Act (CAA) Section 110(l) demonstration highlighting that the revisions to Wisconsin's rules do not interfere with any applicable requirement concerning attainment or any other applicable

requirement of the CAA because this SIP revision is a direct replacement for the previously approved orders. These SIP revisions apply to nonattainment areas in Wisconsin classified as moderate or above under the 2008 or later ozone National Ambient Air Quality Standards ("NAAQS" or "standard"). These revisions are consistent with the CTG documents issued by EPA in 2008 and are approvable because they serve as SIP strengthening measures. EPA proposed to approve this action on January 30, 2023, and received no adverse comments.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2022-0581. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Katie Mullen, at (312)353-3490 before

visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Katie Mullen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3490, mullen.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. Background Information.

On January 30, 2023, EPA proposed to approve SIP revisions that consist of several additions, corrections, and clarifications to the Wisconsin Administrative Code (WAC) NR 400 series and update the VOC RACT requirements for the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (CTG) source categories. Also, EPA proposed to approve Wisconsin’s August 10, 2022, request to remove three previously EPA approved Wisconsin Administrative Orders from the SIP. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking (88 FR 5840) and will not be restated here. The public comment period for this proposed rule ended on March 1, 2023. EPA received no adverse comments on the proposal. Therefore, we are finalizing our action as proposed.

II. Final Action.

EPA is approving in the Wisconsin SIP additions,

corrections, and clarifications related to rules in WAC Chapters 400, 419, 421, 422, 423, 425, 439, and 484. Specifically we are approving NR 400.02(intro.), NR 419.02(intro.), NR 421.02(intro.), NR 422.01, NR 422.02, NR 422.03, NR 422.04, NR 422.05, NR 422.06, NR 422.08, NR 422.083, NR 422.084, NR 422.127, NR 422.128, NR 422.14, NR 422.145, NR 422.15, NR 422.151, NR 423.035(2)(a)1., NR 423.037(2)(a)1., NR 425.04(3)(a), NR 439.04(4) and (5), and NR 484.10 Table 5 Rows (9) and (25m), as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022. These revisions are consistent with the Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings CTGs issued by EPA in 2008. These revisions are approvable because they serve as SIP strengthening measures for Wisconsin's VOC rules. Also, EPA is approving Wisconsin's request for the removal of the previously approved Administrative Orders AM-20-01, AM-20-02, and AM-20-03, submitted in a letter from WDNR on August 10, 2022. When EPA approves this action, it concurrently removes these three Administrative Orders from the Wisconsin SIP. The SIP revisions under Wisconsin Board Order AM-20-18 replace AM-20-01, AM-20-02, and AM-20-03.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wisconsin regulations described in sections

I and II of this preamble and set forth in the amendments to 40 CFR part 52, below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov*, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Also in this document, as described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Wisconsin Regulations and Statutes from the Wisconsin State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the

provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

WDNR did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent

with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 31, 2023.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.2570 is amended by removing and reserving paragraphs (c)(139) and (140) and by adding paragraph (c)(148).

The addition reads as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(148) On June 28, 2022, WDNR submitted a SIP revisions request that consists of several additions, corrections, and clarifications within the Wisconsin Administrative code NR 400 series and updates the VOC RACT requirements for Miscellaneous Industrial Adhesives and Miscellaneous Metal and Plastic Parts Coatings CTG source categories. Also, on August 10, 2022, WDNR submitted a request to remove from the SIP three Administrative Orders (AM-20-01, AM-20-02, AM-20-03) previously approved in paragraphs (c)(139) and (140) of this section. These SIP revisions apply to nonattainment areas in Wisconsin classified as moderate or above under the 2008 or later ozone standard. These revisions are consistent with the CTG documents issued by EPA in 2008 and are approvable because they serve as SIP strengthening measures.

(i) *Incorporation by reference.* The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 400.02(intro.), as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(B) NR 419.02(intro.), as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(C) NR 421.02(intro.), as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(D) NR 422.01, NR 422.02, NR 422.03, NR 422.04, NR 422.05, NR 422.06, NR 422.08, NR 422.083, NR 422.084, NR 422.127, NR 422.128, NR 422.14 and 422.145, NR 422.15 and 422.151, as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(E) NR 423.035(2)(a)1., and NR 423.037(2)(a)1., as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(F) NR 425.04(3)(a), as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(G) NR 439.04(4) and (5), as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(H) NR 484.10 Table 5 Rows (9) and (25m) , as published in the Wisconsin Register, May 2022 No. 797, effective June 1, 2022.

(ii) [Reserved]